

**Financial Assurance Board  
Minutes  
November 14, 2002 Meeting**

**Board Members Present**

Mayor James Acton, Public  
William Herdrich, Petroleum Marketers  
Kim Logan, State Treasurer's Office  
Tracey Boatwright, State Fire Marshal's Office  
John Sharp, Financial Institutions

Mary Beth Tuohy, IDEM  
Greg Silver, Environmental  
Bill Shaver, Petroleum Marketers  
Roy Meeks, Service Stations  
Joanie Kanizer, Convenience Stores

**Board Members Not Present**

Linda Dollens, IDR  
Ed Grimmer, Public

Marty Hollingsworth, Public

**IDEM Staff Present**

Nancy King, Board Counsel

Paul Serguta, ELTF Program

Mayor Acton, Chair, called the meeting to order and board members introduced themselves. Initially, a quorum was not present. Later in the meeting, Mayor Acton announced for the record that Tracy Boatwright and John Sharp had joined the meeting, thereby creating a quorum.

**New Business Update**

Mayor Acton mentioned that he received a copy of Stan Pinegar's FAB resignation letter that was sent to the Governor. Mr. Pinegar indicated that he appreciated working with FAB Board and its members. The members hated to see him leave but wished him well. A new member filling Stan's position should be appointed by the next board meeting.

Mr. Silver thanked Steve Browning for all his work on the Board and let him know the Board appreciated his candor and his help over the many years. Mayor Acton echoed that remark and added that Steve has been very accessible and informative whenever the Board needed information.

## **Fund Administrator's Report**

Ms. Tuohy reviewed the **Excess Liability Trust Fund Revenue and Expense Summary**. Mr. Serguta explained that the apparent decrease in revenue was the result of a Department of Revenue computer conversion. Future reports should show revenue more in line with historical levels. Mr. Serguta pointed out that claim payments are now exceeding revenue. Ms. Tuohy and Mr. Serguta then answered questions from the Board concerning the long-term viability of the Fund, the agency-wide service fee and the new state agency-wide fee.

Mr. Serguta reviewed the **Petroleum Trust Fund Revenue and Expense Summary**. There were no questions from the Board.

Next, Mr. Serguta gave an overview of the **Report to the Financial Assurance Board** noting that Navigant is now providing both formats; calendar and fiscal-year basis on Claims covering 1992 to current 2002. We are still at a high pace with approximately 230 claims per month.

Mr. Shaver mentioned the high number of real estate transactions in the petroleum marketing business and questioned whether the rise caused claims to increase. They anticipated numbers going down and not all the transactions from one owner to the next.

Mr. Serguta agreed that it's highly likely and will look into it.

## **Other Matters**

Mayor Acton talked briefly about his meeting with Attorney General Stephen Carter and the Attorney General's Chief Operating Officer Chuck Todd concerning third-party claims. Mayor Acton, indicated that he was satisfied with the AG's explanation and recommendation.

Steven Griffin, Environmental Section Chief for the Attorney General's Office spoke to the Board and presented the AG's position. He stated he would be happy to discuss the matter with the petroleum marketers, the Board or anyone who was interested.

Chris Braun added to the discussion of third party claims and the Attorney General's stance and described two cases currently under review. He also briefly touched on two issues that should be addressed with the ELF rule revisions: 1) the clarification of the environmental penalty language to make the statute and rule consistent; and 2) analyzing the existing rules to make sure there is a balance on the role that IDEM plays on reasonable oversight for purposes of cleanup versus the needs of a tank owner for cleanup. An improper balance may allow claimants to put in for more aggressive and expensive system that could be detrimental to the fund. It was agreed that these issues should be discussed in the rulemaking workgroup currently meeting on the rule.

Mike Pitts addressed the Board and discussed news that indicated gasoline consumption is up and we should see a growth in the oil inspection revenues. He also pointed out that with the Fund's balance declining, the Board might want to re-investigate bonding.

Nancy King gave an update on the ELTF rulemaking and indicated that the rule should be ready for preliminary adoption in May. The schedule would depend on comments received, development of the second notice with draft rule language, and any legislation affecting the rules in the upcoming session.

### **Minutes of the September 10, 2002 meeting**

The Board approved the minutes from the September 10, 2002 minute.

### **Next Board Meeting**

The next board meeting is scheduled for Thursday, February 13, 2003. Mr. Silver moved that the meeting be adjourned and Mr. Boatwright seconded the motion. The vote was unanimous and the meeting was adjourned.

Date: \_\_\_\_\_

Signature \_\_\_\_\_

James Acton, Chair  
Financial Assurance Board